

1871-013
Lee Co.

Chancery Causes. John M. Tate vs. Francis C. Allen Jr &c

C. Young & Sons, Young, McPherson, Orr, Poteet

Ch. Debt

Virginia Lee County Court Court

To the honorable Judge of the said court in chancery sitting, your orator John M. Tate, respectfully represents and charges That Francis Collier for & young & son recovered a judgment at the term of the Lee County Court, against your orator, and William McPherson for \$162.50 with interest and costs, your orator was the principal in said debt and said McPherson was his surety, James W. Orr was the Sheriff of Lee County at the time and Wm. McPherson, your orator's surety was the legally qualified deputy of said Orr, acting as such, on execution issued on said judgment, and was placed in the hands of said Wm. McPherson to collect, your orator has paid \$65. on said debt the 24th of Decr 1867 which was placed as a credit on said Wife whilst the life was in the hands of said McPherson to collect, he collected from your orator \$100, on said Wife, and took a receipt therefor, said McPherson failed to make return of the amount of said \$100, and another Wife issued on the 18th of July 1870, for the whole amount of said judgment interest & costs, credited with \$65, the 24th of Decr 1867 and \$65, on the 18th of Janr 1869. The said Wife was placed in the hands of Wm. W. Hays now Sheriff of Lee County and he will collect, the same again off of your orator under restoration.

By injunction, your order is remealed
at Law, he prays your honor to grant
him relief, he prays your honor to
grant him an injunction, restraining
the collection of \$865, dollars of said
execution, besides the costs incurred
thereon, and on a final hearing he
prays that said injunction be made
perpetual to that end he makes
H. C. Allen, C. Young, & Robert Young and
William M. Pherson parties defendant
to this Bill, and prays that they
answer the same on oath, he prays
for the Commencement, writ of Habeas
corpus and as in duty bound
he will ever pray &c.

Done, D. C.

All persons at Law in the present
sought to be imprisoned are hereby
released,

John M. Tate Clerk

John M. Tate states that the allegations
of the foregoing Bill are true July
the 18th 1870,

John M. Tate

Done to by John M. Tate before me
the 18th of July, 1870,

Henry J. Morgan

Virginia Lee County Court
An injunction is granted the pref. rest-
aining the \$865 H. C. Allen, C. Young &
Robert Young from collecting \$865 of the
said debt in the Execution mentioned
in the Bill of H. C. Allen, C. Young
& Son vs John M. Tate & William
M. Pherson, besides what is created
on said debt, until the further
order of this Court, on condition that
the complainant execute a bond
with security to be approved by the
clerk, conditioned as follows, to
appear, given under my hand
the 18th of July, 1870.

Pepps cast

Belts cast.

no { Separation 1811

Injunction granted to restrain the defendant from collecting \$65.00 of the judgment in the Bill mentioned ~~herein~~ the further order of Court.

" C. Publication & contd

11 Oct., Nov. & Dec. could join

O. Publication.

1. 4th & P. Comp. P. 1. 1. 1.

11. Merck, v. Visi confirmed

2nd. 1808 set to ^{an} amended by 1840.

11. *Chlorophylla* continued

June 8. Jolly.

" Aug. Injunction dissolved.
Bill dismissed at
Duffs costs.

To the Honorable Henry J. Morgan Judge
of the county court of Lee County of ~~the~~
The separate answer ^{and demurrer} of Robert D. Young to a
bill filed in this Honorable court by John
M. Tate, against this respondent et als.

Respondent says the pl. ff's bill is not
sufficient in law. and of this he prays judgement
But if any other or further answer be deemed
necessary, answering he says the ~~pl. ff's~~ bill so far
as the facts and nature of the transaction is
concerned, is true, but your respondent, denies that
there has ever been paid to him or his co-defendants
Alvin or C. Young the residue of said paper
after deducting the costs of \$66- and \$35-- but, the
same is yet unpaid to them; now as to the payment
of the said claim to the said McPherson, he knows
nothing of his own knowledge, but he is informed
and believes ^{at least while he was a deputy sheriff and} the same never was paid to him
The said McPherson, informs your respondent the
same has never been paid to him, and the pl. ff
after the institution ^{of this suit} of respondent is properly
informed has offered to pay the said residue if
he would pay the costs of suit. but your re-
spondent steadily refused to do so believing the same
never had been paid - Respondent denies every other
material allegation in pl. ff's bill not heretofore
confessed charged or answered and having now
answered he prays hence to be dismissed
with his costs -

Hagan & Pridmore

Virginia 288 County to wit-

This day Robert D. Young personally appeared
before me, the undersigned, and made oath
that the statements and allegations contained in the
foregoing answer so far as made on his own
knowledge are true and so far as made on
information derived from others he believes
them to be true - Signed under my hand
This 3^d day of April 1871 John B. West, D. C. C.
Lee County Court.

R. D. Young

vs. Answer

John M. Gato

15th 4 April 3rd. Filed

John B. West, D. C. C.

To the Honorable Henry J Morgan Judge
of the County Court of Lee County

Clairborne Young a defendant to a bill
filed in this honorable court against him
dothors by John M Tate, says That the plain-
tiffs bill is not sufficient in law. But
if any further answer is required Answering
he says That the allegations in the plaintiffs
bill as to the payments claimed to have been made
to Mr. M. P. Pherson deputy for J. M. Orr the
Sheriff, ^{when he the said M. P. Pherson had the execution in his hands for collection} and for which no credit is given. ^{has}
he does not believe to be true from the infor-
mation which he has received. Indeed your
respondent has been informed that no execution
in the Judgment in the bill mentioned
has ever been placed in the hands of
said M. P. Pherson for collection. & if this
be so the plaintiff must be laboring under
some mistake as to facts. But at all events
your respondent states That no other sums
of money were ever paid to them on said
Judgment other than their credit to wit
\$65 & \$35. And the residue of said Judgment
is duly due. Your respondent therefore prays
That the Judgment granted the plaintiff
be dissolved and bill dismissed costs.

Subscribed before me the undersigned Clerk of the County Court
of Lee County by Clairborne Young this May 16th 1871.

James H Orr, Clerk.

Clair Gaurg

acts { Lem & Anson

John M Lott

Filed May

John M. Lott
against
H. C. Allen for &c.

} Injunction. In ch

This cause came on this day to be heard
on the bill of the plaintiff ^{and several others} the ~~demurrer~~ and
answers of the defendants Claiborne and Robert
de Young ~~depositions~~ with general replication
~~that~~ depositions of witnesses and was argued
by counsel on consideration whereof it is adjudged
ordered and decreed that the ~~plaintiffs bill~~
Injunction heretofore awarded be dissolved and
the plaintiffs bill be dismissed and that
the defendants Claiborne Young and Robert
de Young recover against the plaintiff their
costs expended, and the cause is stricken
off the docket.

John M. Lott

vs. { Injunction. In eq

H. C. Allen for vs.

Entered order Book page
340 Aug 24th 1871.

James W. Orr clerk

Entered this Dece.

H. J. Morgan

Aug 24 1871

The deposition of James W Orr taken before me
Peter C. Johnston a Commissioner in the
Circuit Court of Lee County, Va. ^{at my office in the town of Danville, in said County} which deposition
is intended to be used as evidence on behalf of C. Young.
I was in a certain suit in Chancery now pending in the
County Court of said County wherein John M. Cole
is plaintiff and the said C. Young & sons are defendants
James W Orr a witness of lawful age being first
duly sworn deposes as follows.

I was Sheriff of Lee County in the year 1868, and Wm
McPherson was at that time my Deputy, and an Execu-
tion came into my hands in favor of Francis C. Allen
for C. Young & Sons dated the 26th day of March 1868, return-
able to June Rules 1868, against Wm McPherson and on which
I collected nothing, another execution issued on the same
judgment, came into my hands dated the 8th day of July 1868 &
returnable to October Rules 1868, on this last mentioned Execution
Wm McPherson paid me the sum of \$35.00 which sum I
paid over to the plaintiffs, No Execution issued on the said judgment
ever went into the hands of said McPherson as Deputy Sheriff ^{for collection}, that I know
of, Neither does it appear from the records of the Clerk's office, that
an Execution issued on said judgment ever did go into his
hands for collection, and further the deponent saith not
James W Orr.

I, Peter C. Johnston, Commissioner in Chancery of the Circuit Court of
Lee County, in Virginia, do certify, that the foregoing deposition of
James W. Orr was taken & sworn to before me, on the 18th day
of July 1871, at the place stated in the caption thereof, by the consent
and in the presence of both parties, notice being waived. Given under
my hand this 18th day of July 1871.

P. C. Johnston,
Comm.

C. H. Jones & Sons.

adv. } Deposition

John M. Tate

Received from the Court
before whom taken and
filed. July 18th 1871.

James W. Orr. Clerk.

State of Va
Lee county This the 15th day of July
1871.

I have on this day, proceeded to take the deposition of Samuel Pottel a witness for John M. Tate about the age of 40, years at Samuel Pottels in Lee county Va, in obedience to a citation thereunto annexed in the presence of the said John M. Tate.

to be read as evidence in a suit now pending before the judge of the county court of Lee county, Va wherein ~~in~~ The said Youngson is Plaintiff and John M. Tate Defendant. The said Samuel Pottel after being duly sworn on the Holy Evangelist to speak the truth the whole truth and nothing but the truth concerning the matters in dispute between the said parties deposes as follows.

In the Spring of 1868, I heard Wm. McPherson say that John M. Tate had paid him what they was called the Young Debt, known to have originated from H. L. Allen's Sale and I further know that I paid a part of the money to Wm. McPherson myself and that I and said McPherson was all present when they settled and I do know that Wm. McPherson was J. W. Orr's Deputy Sheriff at that time and claimed to have the authority to collect said Debt and did so out of said Tate in my presence
(over)

and John Mc Lane made said Wm McPherson fully satisfied that all was paid of said Debt. and whether said McPherson gave a receipt for the Payment of the same or not I do not know. but I did hear McPherson say that John Mc Lane had paid him fully the young Debt. and I further know that Wm McPherson was and claimed to be the Deputy Sheriff of Lu county Va under J. W. Orr. High Sheriff, and he said he was sure it was all right and for the more the Deposition saith not. Samuel Poteet

John W. Poteet

Deposition

C. Young & Son

Recd from Samuel Poteet sealed & filed

July 17th 1871

James W. Orr. Clk

I certify That The foregoing Deposition is all in my own hand writing That I am in no wise related to either of the parties That the same was taken before me on the day at the place and in the presence of the party set forth in the caption and it has not been out of my possession or in any wise altered added to or changed since it was signed by the said Samuel Poteet. This the 15th Day of July 1871.
John McPherson J. C.

Expro. S. Young & Son
Richmond, Va.

Please take notice that on the
5th day of July 1871. at the
dwelling house of Samuel Poter
in Lee county Va. I will proceed
to take the Deposition of Samuel
Poter to be read as evidence on
behalf of myself. (John M. Tate)
in an action now in law pending
in the county court of Lee county Va
in which you are Deft. and
I am Deft. and if said Deposition
should not be commenced on that
day I will continue from time
to time until the same are
fully taken July 5th / 1871

Very Respectfully,
John M. Tate

State of Va. }
Lee county }
}

I certify that Lewis
Primer came before me and made
oath that he delivered a true copy
of the within notice to C. Long. Wm
Dickleyville on the ^{8th} ~~7th~~ day of July 1871
Given under my hand July the
15th day 1871.

John Hilsburn J. P.

John W. Tate ----- Deft } In Ldy.
vs.

Francis C. Allen, who sues for the benefit of C. Young & sons" Deft

This day Francis W. Ott personally appeared before me
the undersigned, and made oath that the above named Deft Francis
C. Allen is a non-resident of the state of Virginia.

John B. West, Clerk Lee
County Court.




John M. Tate

vs. { affiant.

Francis C. Allen, for the

Know all men by these presents, that we John M. Tate
and Sanders H. Loring and A. R. Surges are held
& firmly bound unto Francis C. Allen for the benefit of
C. Young & sons in the sum of \$130.⁰⁰, to the true
payment thereof, well & truly to be made to said Allen
for the benefit of said Young & sons, we bind ourselves,
jointly & severally, firmly by these presents. Witness, our hands
and seals this, 18th, day of July 1870.

The condition of the above obligation is such that where
as the said John M. Tate hath obtained from the Judge
of the County Court of Lee County an injunction to re-
strain the said Allen, for the benefit of C. Young & sons,
from ^{collecting \$65.⁰⁰ of} ~~all further proceedings on the judgment of the~~
County Court, ^{in the case mentioned} obtained by said Allen as aforesaid,
against the said Tate and one William M. person
for \$162.35 with interest from time done & costs, until
the further order of Court. Now, if the said Tate
shall pay all costs & damages which may be
sustained by any one by reason of the granting of
said injunction, ^{& shall pay the said \$65.⁰⁰} ~~in case~~ the same shall be dis-
solved, then this obligation to be void, otherwise to
remain in full force.

John M. Tate 
A. R. Surges 
Sanders H. Loring 

John W. Lute

Lo 3 Injunction Pond

Francis C. Allen, forte.

~~~~~



Virginia

At Rules held in the Clerk's Office of the County Court of Lee County, at the Court-House thereof, on Monday, the 1st day of August 1870.

John M. Tate ----- Plff

vs.

} In Chancery.

Francis C. Allen, who sues for the benefit of C. "Young & sons" Deft

The object of this suit is to restrain the defendant Allen from collecting \$65.<sup>00</sup> of the judgment in the Bill mentioned until the further order of Court. And it appearing from an affidavit filed in this office that the said Allen is a non-resident of the State of Virginia, It is therefore ordered that he appear here within one month after due publication of this order, and do what is necessary to protect his interest in this suit.

A copy. John B. West, Clerk.  
Lesh. John B. West, Clerk.

Virginia Lee County, To wit: I, hereby certify that on Monday, the 15th day of August 1870, that being Court-day, I posted at the front door of the Court-House of Lee County, a copy of the above order.

John B. West, Clerk

Augt. 16th 1870.



John M. Tate

no. { Order of Publication  
}

Francis C. Allen, for &c.



## VIRGINIA :

WASHINGTON COUNTY, TO WIT :

I do hereby certify that the annexed Notice has been published  
*four weeks successively, ending September 2<sup>nd</sup> 1870,*  
in the "ABINGDON VIRGINIAN," a newspaper published in the  
town of Abingdon, Va. . Given under my hand this *11<sup>th</sup>*  
day of *September* , 1870.

*Geo. W. Barr,*

*Jr. Ed "Virginian"*

VIRGINIA:—At Rules held in the Clerk's office of the County Court of Lee county, at the Court-house thereof, on Monday, the 1st day of August, 1870:

John M. Tate,

Plff.

vs.

Francis C. Allen, who sued for the benefit of "C.  
Young & Sons."

Def't.

### IN CHANCERY.

The object of this suit is to restrain the defendant Allen from collecting \$65.00 of the judgment in the Bill mentioned, until the further order of Court: And it appearing from an affidavit filed in this office, that the said Allen is a non-resident of the State of Virginia, it is therefore ordered that he appear here within one month after due publication of this order, and do what is necessary to protect his interest in this suit.

JOHN B. WEST, Clk.

Aug. 12, 1870.—4w.